IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2089 OF 2005

Madhukar Laxman Asabe ... Petitioner

V/s.

The Divisional Controller
MSRTC, Thane ... Respondent

Mr.A.B. Desai for Petitioner

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **APRIL 1, 2005**

P.C.:

. The Labour Court by its order dated 30.8.2002 held that the misconduct alleged against the Petitioner had been proved during the course of a fair and proper enquiry. The Labour Court was of the view that the findings of the Enquiry Officer were not perverse and that the misconduct had been proved. By its order dated 22.10.2002, the Labour Court found that the punishment of dismissal was utterly and shockingly disproportionate and therefore, exercised its jurisdiction under Item 1(g) of Schedule IV of the MRTU & PULP Act and directed reinstatement with continuity of service and full backwages w.e.f. 13.10.1999. Aggrieved by this order, the respondent filed a revision application. This revision application has been allowed since the

Industrial Court was of the view that the misconduct committed by the Petitioner was not of a minor or technical nature. In view of this, the powers under Item 1(g) of Schedule IV of the MRTU & PULP Act could not have been exercised. The Industrial Court has therefore, allowed the revision application and set aside the order dated 22.10.2002 passed by the Labour Court. Consequently, the complaint has also been dismissed.

2. There is no infirmity in the order of the Industrial Court. The powers of the Labour Court under Item 1(g) of Schedule IV of the MRTU & PULP Act can be exercised when dismissal or discharge is to be effected for a misconduct of a minor or technical nature. Such an action would amount to imposition of a shockingly disporportionate punishment. In the present case, the misconduct alleged against the Petitioner was that he had failed to issue tickets to 7 passengers and that there was shortage of cash with the Petitioner. This cannot be termed as a misconduct of a minor or technical nature. The powers under Item 1(g) of Schedule IV could not have been exercised. Hence, Petition is rejected.